

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RYAN THOMPSON,

Plaintiff,

v.

JOSHUA WILSBACH,

Defendant.

No. C05-211MJP

ORDER GRANTING PLAINTIFF
LEAVE TO RE-AMEND HIS
SECTION 1983 COMPLAINT


This matter comes before the Court on Magistrate Monica J. Benton's Report and Recommendation regarding Plaintiff's cause of action under 42 U.S.C. §1983. Plaintiff is a prisoner, who is proceeding *pro se* and *in forma pauperis*. On April 5, 2005, the Court issued an Order declining to serve the Plaintiff's Complaint and granting Plaintiff leave to amend. (Dkt. No. 5). After receiving several extensions, Plaintiff filed his amended complaint on September 7, 2005. (Dkt. No. 22). The magistrate found that the amended complaint did not sufficiently allege injuries to make out a case under section 1983 and recommended that this Court dismiss Plaintiff's case. (Dkt. No. 24). In response to this recommendation, Plaintiff filed a letter with the Court stating that he did not understand the legal standard for section 1983 claims and is now ready to file a second amended complaint in this case that more specifically alleges the injuries he suffered. (Dkt. No. 26). The magistrate in this matter rightly observed that "verbal harassment or abuse is not sufficient to state a claim under §1983." (Dkt. No. 24 at 2), citing Freeman v. Arpaio, 125 F.3d 732, 738 (9th Cir. 1997). However, Plaintiff's objection implies that he is alleging more than mere verbal harm, but was

1 unaware of how to do so as a *pro se* litigant. The Ninth Circuit has held that a Plaintiff can succeed
2 on a section 1983 claim if he can show direct, personal participation in his injury by the Defendant, or
3 if he can show that Defendant set, “in motion a series of acts by others which the actor knows or
4 reasonably should know would cause others to inflict the constitutional injury.” Arnold v.
5 International Business Machines Corp., 637 F. 2d 1350, 1356 (9th Cir. 1981).

6 Fed. R. Civ. P. 15 provides that leave to amend a complaint shall be given by the Court,
7 “freely. . .when justice so requires.” In light of Plaintiff’s new allegations, the Court hereby
8 GRANTS Plaintiff leave to amend his Complaint. The Plaintiff shall file an amended Complaint with
9 this Court, which shall be received not later than **thirty (30)** days from the date of this Order.

10 The Clerk of the Court shall direct a copy of this order be sent to all counsel of record.

11 Dated: November 10th , 2005.

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16 Marsha J. Pechman
17 United States District Judge
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